

REMARKS

Status of the Claims

Claims 1-25 are pending, with claims 1 and 13 being independent. Claims 1, 4, 13, and 16-18 have been amended to even more clearly recite and distinctly claim the present invention. Support for the claim amendments may be found throughout the specification; therefore, no new matter has been added.

Initially Applicants would like to thank the Examiner for indicating that claim 10 is allowed and that claims 9, 13, 22, and 23 contain allowable subject matter.

Applicants respectfully request the Examiner to reconsider and withdraw the outstanding rejections in view of the foregoing amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 112

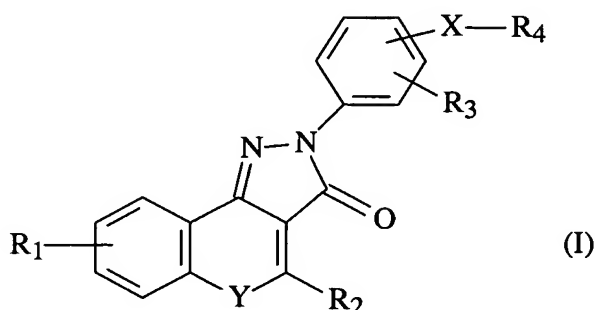
Claims 4 and 16-18 stand rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for recitation that R₃ can be methylenedioxy. In order to expedite prosecution, claims 4 and 16-18 have been amended to delete “methylenedioxy”. Accordingly, Applicants respectfully submit that the rejection under 35 U.S.C. § 112 has been obviated and respectfully request that the rejection be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-8, 14-21, 24 and 25 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,312,870 (“Yokoyama”). Without conceding the propriety of the rejection, claim 1 has been amended as provided above. In view of the amended claims, Applicants respectfully disagree with the rejection; therefore, this rejection is respectfully traversed.

Yokoyama relates 2-aryl-pyrazole[4-3-c]quinolin-3-ones and pharmaceutically acceptable acyl derivatives or salts thereof that are psychoactive agents useful in the treatment of anxiety or depression. As two examples of psychoactive agents useful in the treatment of anxiety or depression, Yokoyama discloses 2-(p-methylcarbamoylaminophenyl)-pyrazolo[4,3-c]quinolin-3(5H)-one and 2-(p-carbamoylphenyl)-pyrazolo[4,3-c]quinolin-3(5H)-one.

In contrast, the present inventions relates to heterocyclic compounds with immunomodulatory activity. As such, the presently claimed compounds are compounds of the following formula (I) or a pharmaceutically or veterinarily acceptable salt thereof:



provided that when R_1 , R_2 , and R_3 are all H, Y is $-NH-$, and X represents a bond, then R_4 may not be $-C(=O)NR_6R_7$, wherein R_6 and R_7 are H, or $-NHC(=O)NHR_6$, wherein R_6 is $-(Alk)_b-Q$ wherein b is 1, Alk is C_1 alkylene and Q is H.

To anticipate a claimed invention under §102, a reference must teach each and every element of the claimed invention. See *Lindeman Maschinenfabrik GmbH v. American Hoist and Derrick Company*, 221 USPQ 481, 485 (Fed. Cir. 1984). It is respectfully submitted that in no way does Yokoyama disclose or suggest the presently claimed compounds of formula (I) or pharmaceutically or veterinarily acceptable salt thereof as recited in claim 1. In no way do the psychoactive compounds of Yokoyama overlap with the presently claimed immunomodulatory active compounds of formula (I) or pharmaceutically or veterinarily acceptable salt thereof as recited in claim 1. As Yokoyama does not disclose each and every element of the claims, it cannot anticipate the presently claimed invention of claim 1 or claims dependent thereon. Accordingly, withdrawal of the rejection under 35 U.S.C. § 102(b) is respectfully requested.

Conclusion

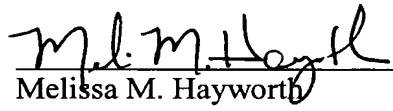
Without conceding the propriety of the rejections, the claims have been amended, as provided above, to even more clearly recite and distinctly claim Applicants' invention and to pursue an early allowance. For the reasons noted above, the art of record does not disclose or suggest the inventive concept of the present invention as defined by the claims.

In view of the foregoing remarks, reconsideration of the claims and allowance of the subject application is earnestly solicited. In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

In the event any further fees are due to maintain pendency of this application, the Examiner is authorized to charge such fees to Deposit Account No. 02-4800.

Respectfully submitted,

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